Supreme Court, U.S.
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No. 96-1130

In The

Supreme Court of the United States

October Term, 1996

LEONARD VINCI,

Petitioner,

vs.

WASTE MANAGEMENT, INC. AND WASTE MANAGEMENT OF ALAMEDA COUNTY, INC.,

Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

RESPONDENTS' BRIEF IN OPPOSITION

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QUESTION PRESENTED

The Court of Appeal held that petitioner Vinci lacks antitrust standing to complain about respondents' alleged anticompetitive acts, either as a former shareholder of a company allegedly injured by some of those acts or as an employee allegedly terminated for refusing to participate in other of those acts. Should the Court review the Court of Appeal's decision, given that:

1. The decision does not conflict with any decision of any other federal circuit or any state court of last resort, and, if anything, resolves a conflict between the Ninth Circuit and other circuits;

2. The decision raises no important question of federal law that has not been, but should be, settled by this Court; and

3. The decision simply holds, correctly, that:

(a) petitioner's factual allegations as an injured shareholder run squarely into the black letter law that a shareholder has no antitrust standing to sue for alleged injuries to the corporation; and

(b) petitioner's factual allegations as a terminated employee do not bring him within the limited exception to the general rule of antitrust standing carved out in the only case he relies on, *Ostrofe v. H.S. Crocker Co.*, 740 F.2d 739 (9th Cir. 1984), *cert. dismissed*, 469 U.S. 1200 (1985) ("*Ostrofe II*").

PARTIES TO THE PROCEEDING

Respondents are Waste Management, Inc. and Waste Management of Alameda County, Inc. Petitioner is Leonard G. Vinci, a former employee of Waste Management of Alameda County, Inc. (formerly known as Oakland Scavenger Company).

Respondent Waste Management of Alameda County, Inc. has no nonwholly owned subsidiaries, and is wholly owned by respondent Waste Management, Inc., which in turn is wholly owned by WMX Technologies, Inc. Waste Management, Inc. also has one nonwholly owned subsidiary, WMI Medical Services, Inc.

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Respondents request that the Court deny the petition. The Court of Appeals' decision is reported at 80 F.3d 1372 (9th Cir. 1996), *reh'g and reh'g en banc denied* (October 4, 1996), *petition for cert. filed* (January 2, 1997). (For the Court's convenience, this brief will cite to the opinion attached as Exhibit A to the petition as "Op. at __".)

STATUTES INVOLVED

Petitioner is correct that this case involves Sections 1 and 2 of the Sherman Act, 15 U.S.C. §§ 1 and 2. It also involves Section 4 of the Clayton Act, 15 U.S.C. § 15, which provides:

> Any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor in any district court of the United States in the district in which the defendant resides or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee.

STATEMENT OF THE CASE

This is the seventh time that petitioner Leonard G. Vinci, a former employee fired for malfeasance, has tried to convince a court that his time-barred wrongful termination claim is somehow cognizable under the antitrust laws. Four state and federal courts, on six occasions (including three published opinions), have already rejected that argument and held as a matter of law that petitioner's factual allegations do not entitle him to relief under the sole, outlier case he relies on and, accordingly, that he has no standing to assert his purported antitrust claims.

Plaintiff supposes that he was the victim of a grand conspiracy by Waste Management, Inc. and its wholly-owned subsidiary, Waste Management of Alameda County, Inc. (collectively, "Waste Management"). The so-called conspiracy purportedly had the aim to drive petitioner out of business. But petitioner admits he was never in business — a corporation whose stock he owned was. He sold his stock in that company to Waste Management and became its employee. He was later fired, for malfeasance. Petitioner apparently takes issue with the grounds for that termination, but he failed to bring a timely wrongful termination claim, and filed this action instead.[1]

An antitrust action is not a substitute for a timely-filed wrongful termination claim. Thus, as the Ninth Circuit held, petitioner did not and could not allege that he suffered antitrust injury — injury of the type the antitrust laws were designed to prevent — or that he had antitrust standing. Instead, he alleged that: (1) "his company" was driven out of business by Waste Management — but he has no antitrust standing, as its shareholder or otherwise, to complain about that (Op. at 8); and (2) he was fired after he became Waste Management's employee for refusing to go along with a "planned predatory attack" (that even he admits never happened) — but he does not even meet the test for terminated employee antitrust standing announced by the only case he relies on, *Ostrofe II*, much less comply with traditional antitrust standing requirements. (Op. at 9-11).

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1. Petitioner actually filed a nearly identical complaint in California state court first, substituting the California Cartwright Act for the Sherman Act (pp. 4-5, below). The San Francisco Superior Court sustained Waste Management's demurrer to petitioner's Cartwright Act claim, and the California Court of Appeal affirmed that decision. *Vinci v. Waste Management, Inc.*, 36 Cal. App. 4th 1811, 43 Cal. Rptr. 2d 337 (1995). Meanwhile, petitioner filed his virtually identical federal complaint, had it dismissed without prejudice, filed it again, and had it dismissed again, with prejudice. The Ninth Circuit affirmed that second dismissal, and its decision led to this petition.

The Court of Appeals' decision is absolutely correct, and in accord with the law of this Court and all other circuits to have considered the issue. There is no reason for this Court to intervene. (Pp. 9-14, below).

I. Course Of Proceedings And Disposition Of The Case Below

A. Petitioner's Allegations

Petitioner first filed this case (actually, one just like it) in California Superior Court on January 12, 1994. (Op. at 5; n. 1, above). Petitioner alleged, in both his state and federal actions, that he was the victim of antitrust and other violations by Waste Management.[2] His claims arose out of Waste Management's alleged conduct during two distinct periods: (1) after the parties settled prior litigation in 1989, but before petitioner came to work for Waste Management ("the pre-employment period") (First Amended Complaint ("FAC"), ¶¶ 3-6), and (2) after petitioner was hired by Waste Management but before his termination on December 2, 1992 ("the employment period"). (FAC, ¶¶ 7-14).

Petitioner alleged that, during the pre-employment period, Waste Management breached the settlement agreement in an attempt to put his company, Vinci Enterprises, out of business. (Op. at 5; FAC, ¶¶ 4-6). During the employment period, petitioner said, Waste Management tried to put out of business a man named Richard Valle, who was engaged in a joint venture with Waste Management. (Op. at 5; FAC, ¶ 11). Also during the employment period, petitioner alleged that defendants tried

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2. This brief will cite to the allegations in petitioner's amended federal complaint, which are at issue here. The allegations in his state complaint were substantively identical.

to force him to participate in anticompetitive acts directed at Waste Management's competitor and, when he refused, terminated him. (Op. at 5; FAC, ¶¶ 12-14).

Petitioner claimed that these alleged acts were in furtherance of Waste Management's purported "scheme, conspiracy to restrain and monopolize and an attempt to monopolize the intrastate and interstate business of garbage collection and recycling," the ultimate goal of which, allegedly, was "to gain a monopoly of garbage and recycling services in the East Bay Area, and to set the groundwork for achieving a monopoly in Northern California." (FAC, ¶¶ 15-17; *see also* Pet. at 3).[3]

B. The San Francisco Superior Court's Decision

Petitioner's state court complaint alleged, among other claims, a violation of the California Cartwright Act, which, like the Sherman Act, requires that private plaintiffs have antitrust standing. *See Weisensee v. Chronicle Pub. Co.*, 59 Cal. App. 3d 723, 728, 129 Cal. Rptr. 188, 191 (1976); *Vinci*, 36 Cal. App. 4th at 1814 & n. 1, 43 Cal. Rptr. 2d at 338-39 & n. 1. Waste Management demurred to the complaint, and the demurrer was sustained and the complaint dismissed. On the issue of antitrust standing under the Cartwright Act, petitioner relied almost exclusively on *Ostrofe II*. The Superior Court found that, on the face of the complaint, petitioner did not meet any of the

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3. Petitioner has never alleged, or even argued, in any forum, that any antitrust violation ever actually occurred. Instead, he maintains that his actions prevented an antitrust violation. (Pet. at 3). Thus, petitioner argues for a rule whereby one who complains about an antitrust violation that never happened may nonetheless avail himself of antitrust remedies. That would be unprecedented, and plainly wrong.

threshold requirements of that case. Accordingly, the Court held "plaintiff has no standing," and explained:

> [*Ostrofe II*] requires that a fired employee must show that the antitrust violation will be unremedied without the employee's lawsuit and that the Plaintiff is an essential participant in the alleged wrongful conduct and that the conduct could not succeed without his cooperation.

C. The United States District Court's Decisions

Petitioner then filed a substantively identical complaint in the United States District Court, substituting the Sherman Act for the Cartwright Act. The court granted Waste Management's motion to dismiss that complaint (with leave to amend), holding that petitioner failed to allege either antitrust standing or any substantive antitrust claim. *Vinci v. Waste Management, Inc.*, 1994 U.S. Dist. LEXIS 12071 at *14-20 (N.D. Cal. 1994), *aff'd*, 80 F.3d 1372 (9th Cir. 1996). The District Court, like the Superior Court, considered, and rejected, the application of *Ostrofe II* to petitioner's allegations:

> Vinci maintains that *Ostrofe* is directly on point. . . . *Ostrofe*, however, is readily distinguishable and its application to the facts of this case would unnecessarily expand a relatively narrow holding of the ninth circuit.

Vinci, 1994 U.S. Dist. LEXIS 12071 at *11-12.[4]

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4. The court also held petitioner lacked antitrust standing as an allegedly injured shareholder. *Id.* at *8-9.

Petitioner then filed his first amended complaint, the subject of this petition. However, even with the benefit of the district court's comprehensive prior opinion as a roadmap, petitioner still failed to allege an antitrust violation he has standing to bring, and the court again dismissed the complaint, this time with prejudice:

> Vinci's amended complaint does not overcome the deficiencies found in his original complaint and noted in the previous Order of Dismissal .... Since Vinci has failed to plead a cognizable claim after being given two opportunities to do so, the Court dismisses his claim with prejudice for lack of standing.

Petitioner appealed that decision to the Ninth Circuit. (Part E, below).

D. The California Court Of Appeal's Decision

Meanwhile, on the state court side, petitioner appealed only the dismissal of his Cartwright Act claim, and the California Court of Appeal affirmed. *Vinci v. Waste Management, Inc.*, 36 Cal. App. 4th 1811 (1995). That court agreed with the others that "petitioner has made no allegations to bring him within the *Ostrofe* case." *Id.* at 1817. The court went on:

> Plaintiff's remedy for his own injury is a wrongful termination action. Plaintiff cannot resurrect that time-barred cause of action by framing his lawsuit as an antitrust claim. We hold that plaintiff is not a proper party to bring an action for antitrust violations by his employer. (footnote omitted)

Id. at 1816. Petitioner did not petition the California Supreme Court for review of that decision and it became final on September 9, 1995.

E. The Ninth Circuit's Decision

On April 10, 1996, the Ninth Circuit likewise affirmed the district court's dismissal of petitioner's federal action. The Court held that petitioner suffered no antitrust injury (Op. at 9), and did not fall within *Ostrofe II*'s "limited exception to the general rule that a terminated employee lacks antitrust standing" because he "did not allege any facts which suggest": (1) "that he was essential to the alleged antitrust scheme"; (2) "that his termination was necessary to accomplish the scheme"; or (3) that he had the "greatest incentive to challenge the antitrust violation." (Op. at 10-11). The court held that the *Ostrofe II* exception is "limited to cases in which a dismissed employee" satisfies all three of those factors. (Op. at 10).[5] Petitioner claims that the Ninth Circuit's holding "eviscerated" *Ostrofe II.* (Pet. at 4).

The Court of Appeal denied petitioner's petition for rehearing with suggestion for rehearing en banc, and this petition followed.

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5. The court also held, citing long-standing, black letter Ninth Circuit law, that petitioner had no standing as a former shareholder of a company allegedly injured by Waste Management's conduct. (Op. at 8; pp. 13-14, below). The court did not need to reach the independent grounds for affirming the judgment: (1) that petitioner failed to allege that any antitrust violation ever happened (n. 3, above) and (2) that the California Court of Appeal's final decision affirming petitioner's lack of antitrust standing under his substantively identical Cartwright Act claim (Part D, above) collaterally estopped him from re-litigating his antitrust standing under the Sherman Act. *See, e.g., Morgan Stanley Mortg. Capital, Inc. v. Insurance Com'r of Cal.*, 18 F.3d 790, 792-93 (9th Cir. 1994).

II. Correction Of Misstatements In The Petition Relating To The Procedural History

Petitioner claims that the district court, in dismissing his complaint, "specifically decided not to follow the Ninth Circuit's decision in [*Ostrofe II*] and opted instead for the Seventh Circuit's contrary decision in *Bichan v. Chemetron Corp.*" (Pet. at 4). That is false. The district court, like the Ninth Circuit and every other court to consider petitioner's claim (pp. 4-7, above), applied the test for employee standing set forth in *Ostrofe II*, but simply found petitioner does not meet it. *Vinci*, 1994 U.S. Dist. LEXIS 12071 at *14-18.

Petitioner also attacks the Ninth Circuit's statement of the *Ostrofe II* test he cannot meet. Thus petitioner asserts that the court below "invented the idea that Ostrofe was an 'essential' participant in the conspiracy." (Pet. at 7). But the Ninth Circuit did not "invent" anything — it quoted *Ostrofe II* for that "idea" (Op. at 10) and *Ostrofe II* plainly said so. 740 F.2d at 745-46.

Petitioner also claims that the Ninth Circuit's observation that "there was no one else [other than Ostrofe] with as strong an incentive 'to vindicate the public interest in antitrust enforcement'" (Op. at 10) "simply belies the record." (Pet. at 7). That too is wrong. Again, the court below quoted *Ostrofe II* for the test it applied. (Op. at 10).

Both courts below correctly applied the *Ostrofe II* factors and determined they are not met by petitioner's allegations. Petitioner's attacks on those determinations are unfounded.

REASONS FOR DENYING THE WRIT

Petitioner offers no "compelling reason" why this Court should exercise its discretion to review this case under the

guidelines of Supreme Court Rule 10. The Ninth Circuit's straightforward application of the law plaintiff himself urged to the facts he alleged was correct, and certainly raises no issue for this Court. The Ninth Circuit's decision is also in accord with the decisions of this Court and other circuits, raises no conflict with them, and so presents no reviewable issue for that reason too. Finally, the decision raises no important question of federal law, much less one this Court has not settled.

I. THERE IS NO CONFLICT IN DECISIONS JUSTIFYING REVIEW.

Petitioner argues *certiorari* review is required because "the federal appellate courts have split on the issue of whether an employee discharged for refusal to further an antitrust conspiracy has standing under the antitrust laws." (Pet. at 5). But by petitioner's own telling, this decision "eviscerated" *Ostrofe II* (Pet. at 4), the only federal appellate decision ever to have found standing for a terminated employee. (*See* below). Thus, petitioner admits that this decision eliminates, not creates, a conflict, thereby eliminating, not creating, the need for *certiorari* review.

In fact, this decision is just the latest in a long line of cases limiting or rejecting *Ostrofe II*.[6] Subsequent Ninth Circuit cases

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6. *Ostrofe II* itself was a 2-1 decision, with Judge, now Justice, Kennedy issuing a forceful dissent. The case had first reached the Ninth Circuit in 1982, and the court found standing, 2-1, with Judge Kennedy dissenting. *Ostrofe v. H.S. Crocker Co.*, 670 F.2d 1378 (9th Cir. 1982) (*"Ostrofe I"*), *vacated and remanded*, 460 U.S. 1007 (1983). Shortly thereafter, the Seventh Circuit considered the identical issue, soundly rejected *Ostrofe I's* reasoning, and denied standing. *In re Indus. Gas Antitrust Litig. (Bichan v. Chemetron Corp.)*, 681 F.2d 514 (7th Cir. 1982), *cert. denied*, 460 U.S. 1016 (1983) (*"Bichan"*). The losing parties in both *Ostrofe I* and *Bichan* petitioned for *certiorari*. The next year, this Court decided *Associated Gen. Contractors of*

(Cont'd)

declined to extend *Ostrofe II* beyond its facts. *See Lucas v. Bechtel Corp.*, 800 F.2d 839 (9th Cir. 1986); *Exhibitors' Service, Inc. v. American Multi-Cinema, Inc.*, 788 F.2d 574 (9th Cir. 1986). No other circuit court has followed it. *See Fallis v. Pendleton Woolen Mills, Inc.*, 866 F.2d 209, 211-12 (6th Cir. 1989) (fired employee's injury "merely incidental to the purposes of the alleged price-fixing arrangement"); *Feeney v. Chamberlain Mfg. Corp.*, 831 F.2d 93, 95-96 (5th Cir. 1987) (terminated employee lacks antitrust standing); *Gregory Mktg. Corp. v. Wakefern Food Corp.*, 787 F.2d 92, 96 (3d Cir.) (rejecting rationale of *Ostrofe II*), *cert. denied*, 479 U.S. 821 (1986); *Bichan*, above, 681 F.2d at 519 (rejecting *Ostrofe I* and adopting Judge Kennedy's dissent). This decision simply follows that trend. (Op. at 10-11). Thus, to the extent a "split" among the circuits existed, this decision, if anything, resolves it by severely limiting — or, if plaintiff prefers, "eviscerating" — *Ostrofe II* within its own circuit.

(Cont'd)

Cal., Inc. v. California State Council of Carpenters, 459 U.S. 519 (1983) ("*AGC*"), and remanded *Ostrofe I* for reconsideration in light of that decision while on the same day denying *certiorari* in *Bichan*. As Justice Kennedy observed in dissent in *Ostrofe II*:

> [B]y reaffirming *Ostrofe I*, the majority creates a conflict with the Seventh Circuit in *Bichan* .... To say, as the majority does, that the Supreme Court does not worry about circuit conflict when it comes to antitrust standing, *see* Majority Opinion at 747-748, is a strange way to interpret the Supreme Court's order vacating the majority's first opinion. [¶] *Bichan* was an explicit consideration and rejection of the majority's opinion in *Ostrofe I*, and the Supreme Court chose to deny *certiorari* in *Bichan* on the same day *Ostrofe I* was vacated.

740 F.2d at 751 (Kennedy, J., dissenting).

Petitioner also argues (Pet. at 5-6) that this Court should resolve the "split" between the few district courts that have followed the rationale of *Ostrofe II* and the many others that have rejected it.[7] But: (1) a "split" among district courts does not satisfy the requirements for review under Supreme Court Rule 10; and (2) in any event, this case, if anything, resolves that split, and so eliminates, not creates, the need for review.

II. THERE IS NO IMPORTANT FEDERAL QUESTION TO REVIEW.

Petitioner also claims this Court "had reserved [in *AGC*] the question of whether a direct victim of an antitrust violation who suffers injury unrelated to antitrust policies can have standing under Section 4" and argues the Court should "accept

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7. *See Gallant v. BOC Group, Inc.*, 886 F. Supp. 202, 207-08 (D. Mass. 1995) (declining to follow *Ostrofe II* to "expand upon the doctrine of standing currently in place in this circuit"); *Rafferty v. Nynex Corp.*, 744 F. Supp. 324, 328 (D.D.C. 1990) (declining to follow *Ostrofe II*); *Boisjoly v. Morton Thiokol, Inc.*, 706 F. Supp. 795, 805 (D. Utah 1988) ("*Ostrofe*'s holding is . . . contrary to virtually all other decisions addressing this issue."); *Thomason v. Mitsubishi Elec. Sales America, Inc.*, 701 F. Supp. 1563, 1569-70 (N.D. Ga. 1988) (declining to follow *Ostrofe II*); *Reitz v. Canon USA, Inc.*, 695 F. Supp. 552, 554 (S.D. Fla. 1988) (following *Bichan* and *Ostrofe II* dissent); *Haigh v. Matsushita Elec. Corp. of America*, 676 F. Supp. 1332, 1345-46 (E.D. Va. 1987) ("this court must reject the *Ostrofe* [*II*] analysis"); *Winther v. DEC Intern., Inc.*, 625 F. Supp. 100, 103 (D. Colo. 1985) ("Nothing in [*AGC*] supports [*Ostrofe II*'s] interpretation of the scope of antitrust law."); *McNulty v. Borden, Inc.*, 542 F. Supp. 655, 661 (E.D. Pa. 1982) (declining to "extend[] standing under the antitrust laws as far as the Ninth Circuit has [in *Ostrofe I*]"); *Callahan v. Scott Paper Co.*, 541 F. Supp. 550, 561 (E.D. Pa. 1982) ("I do not believe that *Ostrofe* [*I*] was correctly decided."); *see also* II Areeda and Hovenkamp, *Antitrust Law* ¶ 377d5 at 316-17 (1995) ("Most courts correctly deny standing because the employee's loss of employment did not reflect the reduced product-market competition that created the alleged antitrust violation.").

the question it specifically reserved." (Pet. at 6) . That argument is wrong from start to finish.

Petitioner apparently relies on footnote 44 of *AGC*, *see Ostrofe II*, 740 F.2d at 746, but misstates what it says. That footnote reads:

> We therefore need not decide whether *the direct victim of a boycott*, who suffers a type of injury unrelated to antitrust policy, may recover damages when the ultimate purpose of the boycott is to restrain competition in the relevant market.

AGC, 459 U.S. at 910, n. 44 (emphasis added). Vinci was not the victim, direct or indirect, of any boycott (Op. at 10), so footnote 44 does not apply to him in the first place, and his petition therefore does not raise any question that footnote may have "reserved."

But even assuming the question of petitioner's standing — as a non-boycott victim "who suffers a type of injury unrelated to antitrust policy" — had been "reserved" in *AGC*, that question was resolved against him in this Court's later decisions. In *Atlantic Richfield Co. v. USA Petroleum Co.*, 495 U.S. 328, 334 (1990) ("*ARCO*"), the Court reiterated the rule that "injury, although causally related to an antitrust violation, nevertheless will not qualify as 'antitrust injury' unless it is attributable to an anticompetitive aspect of the practice under scrutiny." *Id.* at 334 (*citing Cargill, Inc. v. Monfort of Colorado, Inc.*, 479 U.S. 104, 109-110 (1986)); *see also id.* at 339 (antitrust injury requires that a private party be "adversely affected by an *anticompetitive* aspect of the defendant's conduct"); *Rebel Oil Co. v. Atlantic Richfield Co.*, 51 F.3d 1421, 1433 (9th Cir.), *cert. denied*, 116

S. Ct. 515 (1995) (same).[8] This decision is in accord with that settled rule. (*See* Op. at 9).

ARCO and *Cargill* dispose of petitioner's argument; this petition raises no important question of federal law requiring review.

III. THERE IS NO OTHER REASON TO GRANT THE WRIT.

Finally, petitioner offers two other, rather puzzling "reasons for granting the writ." Petitioner first cites the Ninth Circuit's purportedly "false ground that employees do not generally have standing under the antitrust laws." (Pet. at 9). Although no argument supports that "reason," petitioner apparently believes the Ninth Circuit's observation that "[t]he loss of a job is not the type of injury that the antitrust laws were designed to prevent" (Op. at 9) conflicts with *Radovich v. National Football League*, 352 U.S. 445 (1957). (Pet. at i). That is wrong. In *Radovich*, the plaintiff was allowed to challenge a group boycott *in the market for his labor*. 352 U.S. at 447. Here, the Court's statement was obviously made in the context of a terminated employee seeking to challenge an alleged restraint in the market in which he was neither a consumer nor a competitor — *i.e.*, the market in which his former employer competed. (Op. at 9). The Court's statement of the general rule in such cases is absolutely correct and, in any event, raises no issue worthy of this Court's review. (Pp. 9-10, above).

Petitioner's final contention (Pet. at 9-10) apparently refers to the Ninth Circuit's holding that [a] shareholder of a corporation injured by antitrust violations has no standing to

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8. That is true even where, unlike here, the alleged violation is *per se* illegal. *ARCO*, 495 U.S. at 344-45 (*citing Matsushita Electric Industrial Co. v. Zenith Radio Corp.*, 475 U.S. 574 (1986) *and AGC*, 459 U.S. 519 (1983)).

sue in his or her own name.' " (Op. at 8 (*quoting Solinger v. A. & M. Records, Inc.*, 718 F.2d 298, 299 (9th Cir. 1983) *and citing Stein v. United Artists Corp.*, 691 F.2d 885, 897 (9th Cir. 1982) *and Sherman v. British Leyland Motors, Ltd.*, 601 F.2d 429, 439 (9th Cir. 1979)). But that holding simply reflects black letter Ninth Circuit law. Petitioner does not claim that law was wrongly applied, or that its application conflicts with any other decision, anywhere. It is no basis to grant the writ.

CONCLUSION

The petition should be denied.

Respectfully submitted,

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